

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

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LLS NO. 13-0170.01 Thomas Morris x4218

SUNSET BILL

**Sunset Process - Senate Business,
Labor, and Technology Committee**

SHORT TITLE: "Sunset Continue Licensing Of Money Transmitters"

DEADLINES: File by: 1/25/2013

A BILL FOR AN ACT

101	CONCERNING THE CONTINUATION OF THE LICENSING OF MONEY
102	TRANSMITTERS, AND, IN CONNECTION THEREWITH, CONTINUING
103	THE AUTHORITY OF THE BANKING BOARD AND THE STATE BANK
104	COMMISSIONER OVER MONEY TRANSMITTERS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Sunset Process - Senate Business, Labor, and Technology Committee. The bill implements the recommendations of the sunset

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

review and report on the licensing of money transmitters by the banking board and the state bank commissioner by:

- Extending the repeal date of the licensing of money transmitters until September 1, 2024 (**sections 1 and 2**);
- Specifying that the board may investigate any person believed to be engaging in money transmission without a license (**section 3**);
- Extending the amount of time money transmitters have to notify the board of any increase in the number of locations at which they conduct business from 10 days to the next regularly scheduled periodic report (**section 4**);
- Adopting some language from the "Uniform Money Services Act" to:
 - Provide enhanced oversight of substantive changes in the business or financial operations of money transmitters (**section 5**); and
 - Require a money transmitter to inform the board of, and get permission for, a change of control of the money transmitter (**sections 6 and 7**);
- Requiring securities that are used in lieu of a surety bond to be rated in one of the highest grades as defined by a nationally recognized organization that rates securities (**section 8**);
- Requiring money transmitters to notify, and obtain written approval from, the commissioner to exchange securities used in lieu of a surety bond (**section 8**);
- Requiring applicants to pay for prelicense on-site investigations (**section 9**);
- Expanding the deadline to post a surety bond and pay the licensing fee from 90 days after approval of the application to 6 months after approval (**section 9**); and
- Directing the board to hold a hearing after denial of a license application only if the applicant requests it (**section 9**).

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **Recommendation 1**

3 **SECTION 1.** In Colorado Revised Statutes, 12-52-117, **amend**
 4 (1) as follows:

5 **12-52-117. Repeal of article - review of functions.** (1) This

1 article is repealed, effective ~~July 1, 2013~~ SEPTEMBER 1, 2024.

2 **SECTION 2.** In Colorado Revised Statutes, 24-34-104, **amend**
3 (44) introductory portion; **repeal** (44) (k); and **add** (55) as follows:

4 **24-34-104. General assembly review of regulatory agencies**
5 **and functions for termination, continuation, or reestablishment.**

6 (44) The following agencies, functions, or both, ~~shall~~ terminate on July
7 1, 2013:

8 (k) ~~The licensing of persons to sell or issue money orders or other~~
9 ~~exchange or to transmit money through the banking board and the state~~
10 ~~bank commissioner in accordance with article 52 of title 12, C.R.S.;~~

11 (55) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, TERMINATE
12 ON SEPTEMBER 1, 2024:

13 (a) THE LICENSING FUNCTIONS OF THE BANKING BOARD AND THE
14 STATE BANK COMMISSIONER IN ACCORDANCE WITH ARTICLE 52 OF TITLE
15 12, C.R.S., REGARDING PERSONS WHO TRANSMIT MONEY.

16 **Recommendation 2**

17 **SECTION 3.** In Colorado Revised Statutes, **amend** 12-52-104 as
18 follows:

19 **12-52-104. License required - investigations.** (1) A person shall
20 not engage in the business of ~~selling or issuing exchange or in the~~
21 ~~business of~~ money transmission without first procuring a license from the
22 ~~banking board; except that no license under this article shall be required~~
23 ~~of any~~ AN agent, subagent, or representative of a licensee or AN employee
24 of ~~such~~ AN agent, subagent, or representative who acts on behalf of ~~such~~
25 A licensee in the ~~sale of exchange issued~~ TRANSMISSION OF MONEY by the
26 licensee IS NOT REQUIRED TO BE LICENSED UNDER THIS ARTICLE.

27 (2) THE BOARD MAY INVESTIGATE ANY PERSON BELIEVED TO BE

1 ENGAGING IN THE BUSINESS OF MONEY TRANSMISSION WITHOUT A VALID
2 LICENSE REQUIRED UNDER THIS SECTION.

3 **Recommendation 3**

4 **SECTION 4.** In Colorado Revised Statutes, 12-52-111, **amend**
5 (1) as follows:

6 **12-52-111. Multiple locations.** (1) Each licensee may conduct
7 business at ~~such~~ locations within this state ~~as such~~ THE licensee may
8 desire and through ~~such~~ agents and subagents ~~as such~~ THE licensee may
9 from time to time appoint. Each licensee shall notify the ~~banking~~ board
10 ~~within ten days~~, by certified mail of any increase in the number of
11 locations at which it conducts its business and shall provide proof that the
12 LICENSEE HAS INCREASED THE REQUIRED bond or securities ~~required have~~
13 ~~been increased~~ accordingly. THE NOTIFICATION AND PROOF ARE DUE ON
14 THE DATE ON WHICH THE LICENSEE'S NEXT REPORT REQUIRED UNDER
15 SECTION 12-52-110 (2) (b) IS DUE.

16 **Recommendation 4**

17 **SECTION 5.** In Colorado Revised Statutes, 12-52-110, **amend**
18 (2) (b) as follows:

19 **12-52-110. Examination - fee - financial statements and**
20 **reports to commissioner - change in control.** (2) (b) Every licensee
21 shall ~~make and~~ file with the commissioner:

22 (I) Not less than three reports during each calendar year according
23 to the form ~~which may be~~ prescribed by the commissioner. Each ~~such~~
24 report ~~shall~~ MUST exhibit in detail, as may be required by the
25 commissioner, the resources and liabilities of the licensee at the close of
26 business on the day ~~past to be~~ specified by ~~said~~ THE commissioner in
27 writing.

1 (II) A WRITTEN NOTIFICATION WITHIN FIFTEEN DAYS AFTER THE
2 OCCURRENCE OF ANY OF THE FOLLOWING:

3 (A) A CHANGE IN THE LICENSEE'S MANAGING OFFICIAL;

4 (B) THE FILING OF A PETITION BY OR AGAINST THE LICENSEE
5 UNDER THE UNITED STATES BANKRUPTCY CODE, 11 U.S.C. SECS. 101 TO
6 110, AS AMENDED, FOR BANKRUPTCY OR REORGANIZATION;

7 (C) THE FILING OF A PETITION BY OR AGAINST THE LICENSEE FOR
8 RECEIVERSHIP OR THE COMMENCEMENT OF ANY OTHER JUDICIAL OR
9 ADMINISTRATIVE PROCEEDING FOR ITS DISSOLUTION OR REORGANIZATION;

10 (D) THE COMMENCEMENT OF A PROCEEDING TO REVOKE OR
11 SUSPEND ITS LICENSE IN A STATE OR COUNTRY IN WHICH THE LICENSEE
12 ENGAGES IN BUSINESS OR IS LICENSED; OR

13 (E) A FELONY CONVICTION OF THE LICENSEE OR OF A MANAGING
14 OFFICIAL, PRINCIPAL MEMBER, PRINCIPAL SHAREHOLDER, OR AGENT OF THE
15 LICENSEE.

16 **Recommendation 5**

17 **SECTION 6.** In Colorado Revised Statutes, 12-52-103, **add** (1.6)
18 and (2.5) as follows:

19 **12-52-103. Definitions.** As used in this article, unless the context
20 otherwise requires:

21 (1.6) "CONTROL" MEANS:

22 (a) OWNERSHIP OF, OR THE POWER TO VOTE, DIRECTLY OR
23 INDIRECTLY, TWENTY-FIVE PERCENT OR MORE OF A CLASS OF VOTING
24 SECURITIES OR VOTING INTERESTS OF A LICENSEE, APPLICANT, OR PERSON
25 IN CONTROL OF A LICENSEE OR APPLICANT;

26 (b) THE POWER TO ELECT A MAJORITY OF EXECUTIVE OFFICERS,
27 MANAGERS, DIRECTORS, TRUSTEES, OR OTHER PERSONS EXERCISING

1 MANAGERIAL AUTHORITY OF A LICENSEE, APPLICANT, OR PERSON IN
2 CONTROL OF A LICENSEE OR APPLICANT; OR

3 (c) THE POWER TO EXERCISE, DIRECTLY OR INDIRECTLY, A
4 CONTROLLING INFLUENCE OVER THE MANAGEMENT OR POLICIES OF A
5 LICENSEE, APPLICANT, OR PERSON IN CONTROL OF A LICENSEE OR
6 APPLICANT.

7 (2.5) "EXECUTIVE OFFICER" MEANS A PRESIDENT, CHIEF
8 EXECUTIVE OFFICER, CHAIRPERSON OF AN EXECUTIVE COMMITTEE,
9 RESPONSIBLE INDIVIDUAL, OR CHIEF FINANCIAL OFFICER OF A LICENSEE,
10 AND ANY OTHER PERSON WHO PERFORMS SIMILAR FUNCTIONS.

11 **SECTION 7.** In Colorado Revised Statutes, **add** 12-52-110.3 as
12 follows:

13 **12-52-110.3. Change in control - rule.** (1) (a) EXCEPT AS
14 SPECIFIED IN PARAGRAPH (b) OR (c) OF THIS SUBSECTION (1), WHEN A
15 LICENSEE PROPOSES A CHANGE OF CONTROL, THE LICENSEE SHALL:

16 (I) GIVE THE COMMISSIONER WRITTEN NOTICE OF THE PROPOSED
17 CHANGE OF CONTROL WITHIN FIFTEEN DAYS AFTER LEARNING OF THE
18 PROPOSED CHANGE OF CONTROL;

19 (II) REQUEST APPROVAL OF THE CHANGE OF CONTROL; AND

20 (III) SUBMIT A NONREFUNDABLE FEE IN AN AMOUNT ESTABLISHED
21 UNDER SECTION 11-102-104 (11), C.R.S., WITH THE NOTICE.

22 (b) THE BOARD, BY RULE OR ORDER, MAY EXEMPT A PERSON FROM
23 ANY OF THE REQUIREMENTS OF SUBPARAGRAPH (II) OR (III) OF
24 PARAGRAPH (a) OF THIS SUBSECTION (1) IF THE BOARD FINDS THAT IT IS IN
25 THE PUBLIC INTEREST TO DO SO.

26 (c) SUBSECTION (1) OF THIS SECTION DOES NOT APPLY TO A PUBLIC
27 OFFERING OF SECURITIES.

1 (2) AFTER REVIEW OF A REQUEST FOR APPROVAL UNDER
2 SUBSECTION (1) OF THIS SECTION, THE BOARD MAY REQUIRE THE LICENSEE
3 TO PROVIDE ADDITIONAL INFORMATION CONCERNING THE PERSONS
4 PROPOSED TO CONTROL THE LICENSEE. THE ADDITIONAL INFORMATION
5 MUST BE LIMITED TO THE SAME TYPES REQUIRED OF THE LICENSEE OR
6 PERSONS IN CONTROL OF THE LICENSEE AS PART OF ITS ORIGINAL LICENSE
7 OR RENEWAL APPLICATION.

8 (3) THE BOARD SHALL APPROVE A REQUEST FOR CHANGE OF
9 CONTROL UNDER SUBSECTION (1) OF THIS SECTION IF, AFTER
10 INVESTIGATION, THE BOARD DETERMINES THAT THE PERSON OR GROUP OF
11 PERSONS REQUESTING APPROVAL HAS THE COMPETENCE, EXPERIENCE,
12 CHARACTER, AND GENERAL FITNESS TO OPERATE THE LICENSEE OR PERSON
13 IN CONTROL OF THE LICENSEE IN A LAWFUL AND PROPER MANNER AND
14 THAT THE PUBLIC INTEREST WILL NOT BE JEOPARDIZED BY THE CHANGE OF
15 CONTROL.

16 (4) WHEN AN APPLICATION FOR A CHANGE OF CONTROL UNDER
17 THIS SECTION IS COMPLETE, THE BOARD SHALL GIVE WRITTEN NOTICE TO
18 THE LICENSEE OF THE DATE ON WHICH THE BOARD DETERMINED THE
19 REQUEST TO BE COMPLETE AND THE DATE ON WHICH THE BOARD WILL
20 HOLD A HEARING ON THE APPLICATION.

21 (5) BEFORE FILING A REQUEST FOR APPROVAL TO ACQUIRE
22 CONTROL OF A LICENSEE OR OF A PERSON IN CONTROL OF A LICENSEE, A
23 PERSON MAY FILE A WRITTEN REQUEST FOR A DETERMINATION FROM THE
24 BOARD AS TO WHETHER THE PERSON WOULD BE CONSIDERED A PERSON IN
25 CONTROL OF A LICENSEE UPON CONSUMMATION OF A PROPOSED
26 TRANSACTION. IF THE BOARD DETERMINES THAT THE PERSON WOULD NOT
27 BE A PERSON IN CONTROL OF A LICENSEE, THE BOARD SHALL PROVIDE TO

1 THE PERSON WRITTEN NOTIFICATION TO THAT EFFECT AND THE PROPOSED
2 PERSON AND TRANSACTION ARE NOT SUBJECT TO THE REQUIREMENTS OF
3 SUBSECTIONS (1) TO (3) OF THIS SECTION.

4 **Recommendations 6 and 7**

5 **SECTION 8.** In Colorado Revised Statutes, 12-52-107, **amend**
6 (2) as follows:

7 **12-52-107. Bond - condition - amount - rules.** (2) (a) In lieu of
8 ~~such~~ THE surety bond REQUIRED BY SUBSECTION (1) OF THIS SECTION, the
9 licensee may deposit with the ~~banking~~ board securities with a par value
10 equal to the amount of ~~any such~~ THE surety bond.

11 (b) ~~Such~~ Securities ~~shall~~ UNDER THIS SUBSECTION (2) MUST BE
12 RATED IN ONE OF THE THREE HIGHEST GRADES AS DEFINED BY A
13 NATIONALLY RECOGNIZED ORGANIZATION THAT RATES SECURITIES AND
14 MUST consist of:

15 (I) General obligations of, or securities fully guaranteed by, the
16 United States of America or any agency or instrumentality of or
17 corporation wholly owned by the United States of America directly or
18 indirectly; or

19 (II) Direct general obligations of the state of Colorado, or of any
20 county, town, city, village, school district, or other political subdivision
21 or municipal corporation of the state of Colorado.

22 (c) ~~Such~~ THE BOARD SHALL HOLD THE securities ~~shall be held by~~
23 ~~the banking board~~ to secure the same obligations as would any surety
24 bond required by this article. The LICENSEE MAY EXCHANGE THE
25 securities so deposited ~~may be exchanged~~ from time to time for other
26 securities ~~which~~ THAT qualify ~~as aforesaid~~ UNDER THIS SUBSECTION (2)
27 UPON WRITTEN NOTIFICATION TO, AND WRITTEN APPROVAL BY, THE

1 COMMISSIONER. All ~~said~~ OF THE securities ~~shall be~~ ARE subject to sale and
2 transfer, and the ~~disposal~~ BOARD MAY DISPOSE of the proceeds by ~~said~~
3 ~~banking board~~ only on the order of a court of competent jurisdiction.
4 ~~Such~~ THE licensee ~~shall be permitted~~ IS ENTITLED to receive the interest
5 or dividends on ~~such~~ THE securities unless prohibited by a court of
6 competent jurisdiction. The ~~banking~~ board may provide for custody of
7 ~~such~~ THE securities by any qualified trust company or bank located in the
8 state of Colorado. The DEPOSITING LICENSEE SHALL PAY THE
9 compensation of any ~~custodian for~~ PERSON acting as ~~such~~ CUSTODIAN
10 under this section. ~~shall be paid by the depositing licensee.~~

11 **Recommendations 8, 9, and 10**

12 **SECTION 9.** In Colorado Revised Statutes, 12-52-108, **amend**
13 (1) and (3) as follows:

14 **12-52-108. Issuance of license.** (1) Upon the filing of an
15 application, the commissioner shall investigate the applicant. THE
16 APPLICANT SHALL PAY FOR THE COST OF THE INVESTIGATION. If the
17 ~~banking~~ board finds that the applicant is of good moral character and
18 financially responsible and can comply with this article, the ~~banking~~
19 board shall approve the application and notify the applicant in writing
20 ~~who shall within ninety days post~~ THAT ITS APPROVAL EXPIRES SIX
21 MONTHS AFTER THE APPROVAL DATE. ONCE THE APPROVED APPLICANT
22 HAS NOTIFIED THE BOARD THAT HE OR SHE IS PREPARED TO COMMENCE
23 OPERATIONS IN COLORADO, POSTED the required bond, and ~~pay~~ PAID the
24 license fee, ~~whereupon~~ the ~~banking~~ board shall issue to the applicant a
25 license to engage in the business of ~~selling or issuing exchange~~ MONEY
26 TRANSMISSION subject to ~~the provisions of~~ this article.

27 (3) ~~No application shall be denied unless the applicant has had~~

1 ~~notice of a hearing on said application and an opportunity to be heard~~
2 ~~thereon.~~ If the BOARD DENIES AN application, ~~is denied,~~ the banking board
3 shall, within thirty days thereafter, prepare and file in its office a written
4 order of denial, which ~~shall~~ MUST contain the banking board's findings
5 and reasons supporting the denial and, within ten days after the filing of
6 ~~such~~ THE order, THE BOARD shall notify the applicant and send him OR
7 HER a copy of ~~such~~ THE order. THE APPLICANT MAY REQUEST A HEARING
8 BY THE BOARD BY SUBMITTING A WRITTEN REQUEST TO THE BOARD WITHIN
9 SIXTY DAYS AFTER RECEIVING NOTICE AS SPECIFIED IN SECTION 24-4-104
10 (9), C.R.S., AND IF SO REQUESTED THE BOARD SHALL HOLD A HEARING AS
11 SPECIFIED IN SECTION 24-4-105, C.R.S.

12 **SECTION 10. Applicability.** This act applies to actions
13 occurring on or after the effective date of this act.

14 **SECTION 11. Safety clause.** The general assembly hereby finds,
15 determines, and declares that this act is necessary for the immediate
16 preservation of the public peace, health, and safety.